

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

CIVIL No. 09-02852 (PJS/AJB)

VIVIAN DOROTHEA GROVER-TSIMI,

PLAINTIFF,

v.

STATE OF MINNESOTA, collectively;
CITY OF MINNETONKA; MICHAEL
NELSON, individually and in his professional
capacity as a Minnetonka Police Officer;
MICHAEL BRUCKNER, individually and in
his professional capacity as a Minnetonka
Police Officer; COUNTY OF SCOTT; JOHN
GROVER, individually and in his
professional capacity as a Scott County
Sheriff's Deputy; SARAH GORMAN,
individually and in her professional capacity
as a Scott County Sheriff's Deputy; JOHN
HOFFER, individually and in his professional
capacity as a Scott County Sheriff's
Deputy/Officer; SCOTT ANDERSON,
individually and in his professional capacity
as a Scott County Sheriff's Deputy; LOUIS
STEINHOFF, individually and in his
professional capacity as a Scott County
Sheriff's Deputy/Officer; KEVIN
STUDNICKA, individually and in his
professional capacity as a Scott County
Sheriff and superior to the Scott County
Sheriff's Deputies,

DEFENDANTS.

ORDER

On July 8, 2010, the Court dismissed the claims brought by plaintiff Vivian Dorothea Grover-Tsimi against defendants State of Minnesota, City of Minnetonka, Michael Bruckner,

and Michael Nelson. Docket No. 60. On November 19, 2010, Chief United States Magistrate Judge Arthur J. Boylan held a Rule 16 conference for the remaining parties in this matter.

Docket

No. 80. There was no appearance by or on behalf of Grover-Tsimi. *Id.* Defendants Scott County, John Grover, Sarah Gorman, John Hoffer, Scott Anderson, Louis Steinhoff, and Kevin Studnicka incurred a total of \$525.00 in reasonable attorney's fees in connection with their representation at the Rule 16 conference held on November 19.

Grover-Tsimi's non-appearance at the November 19 conference constituted her second instance of unauthorized nonappearance in this matter. After the first such occurrence, on February 23, 2010, the Court warned Grover-Tsimi that "if she again misses a deadline without the prior permission of the Court, fails to appear at a deposition or hearing without the prior permission of the Court, or violates any rule — including any of the Federal Rules of Civil Procedure or the Local Rules of this District — her lawsuit may be dismissed *with* prejudice." Docket No. 42 at 8 (emphasis in original).

This matter is now before the Court on Judge Boylan's Report and Recommendation, dated November 24, 2010, in which Judge Boylan recommends that Grover-Tsimi's complaint be dismissed without prejudice. No objections have been filed to the Report and Recommendation.

Based upon the Court's Order dated July 8, 2010 [Docket No. 60], Judge Boylan's Report and Recommendation [Docket No. 81], and all the files, records, and proceedings herein,

IT IS HEREBY ORDERED that:

1. Defendant State of Minnesota's Motion to Dismiss [Docket No. 10] is

GRANTED;

2. Motion for Dismissal and Motion to Sever Plaintiff's Claims against the City of Minnetonka, Michael Bruckner, and Michael Nelson is **GRANTED IN PART AND DENIED AS MOOT IN PART** [Docket No. 17]. The Minnetonka defendants' motion to dismiss is **GRANTED** and their motion to sever is **DENIED AS MOOT**;
3. Plaintiff's Complaint [Docket No. 1] is **DISMISSED WITHOUT PREJUDICE**; and
4. Prior to prosecuting another claim against Defendants Scott Anderson, Sarah Gorman, John Grover, John Hoffer, Louis Steinhoff, Kevin Studnicka, and Scott County in the United States District Court for the District of Minnesota arising out the circumstances set forth in her Complaint [Docket No. 1], Plaintiff shall pay to Defendants Scott Anderson, Sarah Gorman, John Grover, John Hoffer, Louis Steinhoff, Kevin Studnicka, and Scott County reasonable attorney fees and costs in the amount of \$525.00, incurred as a result of securing representation at the Rule 16 conference held on November 19, 2010, [Docket No. 80].

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: 12/15/10

s/Patrick J. Schiltz
Patrick J. Schiltz
United States District Judge